

MORTGAGE BROKERS & LOAN OFFICERS

Additional Disclosure Requirements

These disclosure requirements are contained in Revised Code 1349.26 and 1349.72(C), printed below in their entirety. Mortgage brokers should review these sections to determine their disclosure obligations to borrowers.

PLEASE NOTE: Revised Code 1349.26 pertains only to “covered loans” as defined in Revised Code 1349.25.

1349.26 Disclosures of Creditor Concerning Covered Loans

(A) A creditor shall provide, for each covered loan, both of the following disclosures. The disclosures shall be in conspicuous type size and be in substantially the following form:

(1) “You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.”

(2) “If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.”

(B) In addition to the disclosures required under division (A) of this section, a creditor shall disclose, for each covered loan, either of the following:

(1) In the case of a credit transaction with a fixed rate of interest, the annual percentage rate, the amount of the regular monthly payment, and the amount of any balloon payment;

(2) In the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to 12 U.S.C.A. 3806.

(C) With respect to any mortgage that is refinanced on or after October 1, 2002, the creditor shall also disclose the total amount the consumer will borrow, as reflected by the face amount of the note. If the amount borrowed includes premiums or other charges for optional credit insurance or debt-cancellation coverage, that fact shall be stated, grouped together with the disclosure of the amount borrowed. The disclosure of the amount borrowed shall be treated as accurate if it is not more than one hundred dollars above or below the amount required to be disclosed.

(D)(1) Subject to division (D)(2) of this section, each creditor shall provide the disclosures required under this section not less than three business days prior to consummation of the transaction. After providing those disclosures, a creditor shall not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided in accordance with this section. A creditor may provide such new disclosures by telephone, if both of the following requirements are met:

(a) The change is initiated by the consumer.

(b) At the consummation of the loan transaction, the creditor provides to the consumer the new disclosures in writing and the creditor and consumer certify in writing that, not later than three days prior to the date of consummation of the transaction, the new disclosures were provided by telephone.

(2) A consumer may, after receiving the disclosures required under this section, modify or waive the three-day waiting period between delivery of those disclosures and consummation of the loan transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency,

specifically modifies or waives the waiting period, and bears the signature of all of the consumers entitled to the waiting period.

(E) Compliance with sections 226.31(c)(1) and 226.32(c) of Title 12 of the Code of Federal Regulations, as amended, shall be deemed compliance with this section.

PLEASE NOTE: The “five counties” referenced in Revised Code 1349.72(C) have not yet been identified.

1349.72 Additional duties of board; pilot financial literacy and counseling program.

(A) In addition to any other duties imposed on the consumer finance education board by section 1349.71 of the Revised Code, the board shall:

(1) Analyze and investigate, on its own initiative, the policies and practices of state agencies, nonprofit entities, and businesses, inasmuch as such policies and practices address financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, and pre-purchase and post-purchase counseling and education for homebuyers;

(2) Provide an annual report and consultation and recommendations to the governor, the general assembly, state agencies, nonprofit entities, and businesses based on the board's findings;

(3) Coordinate and provide resources and assistance to state agencies, nonprofit entities, and businesses in the furtherance of those entities' efforts to improve financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, and pre-purchase and post-purchase counseling and education for homebuyers.

(4) Provide financial assistance to Ohioans through grants funded through the consumer finance fund created under section 1321.21 of the Revised Code and utilize these same funds to provide grants to design, develop, and implement any other programs described in this section.

(5) Receive grants from the consumer finance fund for the implementation of this section.

(B) The board may assign and delegate the execution of its duties to smaller groups of its own members, which shall include committees specifically chartered to address all of the following issues:

(1) The needs of persons, ages eighteen to twenty-five, in the context of the objectives enumerated in division (A) of this section;

(2) The needs of persons, classified as needy, based on a household adjusted gross income equal to or less than two hundred per cent of the poverty level, as determined by the Ohio office of budget and management, or the earned income amount described in section thirty-two of the Internal Revenue Code of 1986, taking into account the size of the household, in the context of the objectives enumerated in division (A) of this section;

(3) The needs of persons, previously convicted of one or more felonies, in the context of the objectives enumerated in division (A) of this section;

(4) The needs of persons, characterized as vulnerable by reason of advanced age, disability, minority, or other demographic consideration, in the context of the objectives enumerated in division (A) of this section;

(5) Any other group or issue identified by the board as worthy of particular attention.

(C) The board shall create a pilot financial literacy and counseling program funded through the consumer finance fund, to be operated in the five counties with the highest mortgage foreclosure rates as of the effective date of this section, and completion of which shall be recommended by mortgage brokers and loan officers for any consumer seeking a mortgage loan with origination fees greater than five per cent. **Before a mortgage broker permits a consumer to commit to such a loan, the broker shall notify the consumer that the loan may have attributes that are predatory.** No person who offers education, advice, or counseling through the financial literacy and counseling program shall be held liable for any damages incurred from actions taken based on the education, advice, or counseling given.